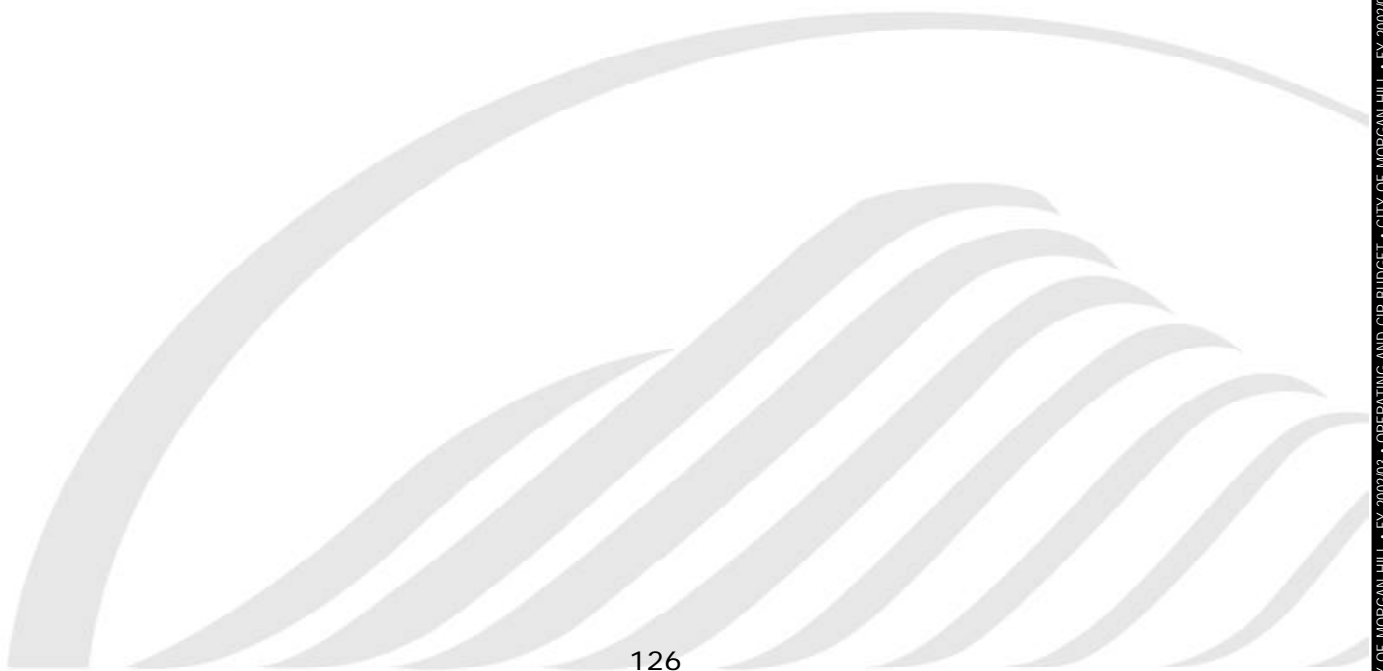


# Appropriations Summary

<sup>1</sup>FY 01/02 Adopted Budget: \$554,316



[illegible]

The City Attorney, directly appointed by the City Council, is responsible for administration of all legal affairs of the City. The City Attorney represents the City in litigation, administrative hearings, and other legal matters; prepares or reviews all ordinances, contracts and other legal documents; renders legal advice and opinions to the City Council, Redevelopment Agency, City and Agency Boards and Commissions, and City staff; and oversees all work done by outside counsel on behalf of the City.

## FY 2001/02 HIGHLIGHTS

- **Staffing** - During FY 2001/02, the positions of City Attorney and Legal Secretary remained filled by the present employees. This stabilized staffing resulted in enhanced utilization of economic resources and ensured continuity of litigation and administrative philosophies and practices.
- **Emphasis on Preventative Law** - The City Attorney's Office continued to emphasize preventative law concepts, including early identification and correction of problematic work philosophies and practices. An open-door policy allowed continual access to the City Attorney by Council members and staff, and resulted in potential legal problems being identified and acted upon at early stages of development. The City Attorney also remained accessible to Council, staff and the public through office hours, telephone, and electronic communication. The City Attorney continued to work closely with the City Manager, Risk Manager, affected Departments, and the public to monitor and resolve matters and issues of public concern in the claims phase, thus avoiding the inherent costs of defending the City against claims and lawsuits.
- **Litigation Caseload** - The number of open cases increased to eleven from last year's count of five. Although due in part to several new tort matters, the increase also resulted from a high-profile zoning challenge and two (2) lawsuits which the City opted to file as a plaintiff.
- **Municipal Code/Form Review** - A project to revise the municipal code and forms commonly used by City departments continued, but was delayed due to increased litigation and transactional matters. The project is expected to continue through the next reporting period.
- **Maintenance of Fiscal Constraints** - Fiscal constraints continued to be a consideration, resulting, in part, in the deferral of hiring of a full-time deputy city attorney, and in judicious use of outside counsel to perform specialized tasks and/or handle complex litigation matters. Active monitoring of outside law firms with a concentration on appropriate, effective, and economic case and matter handling continued.
- **Litigation** - Total outstanding lawsuits stand at twelve. The following cases were resolved: City of San Jose v. City of Morgan Hill and Juarez v. City of Morgan Hill.
- **Advisory and Transactional** - Numerous agreements for Public Works, Community Development, Redevelopment Agency, Recreation, and Housing were negotiated and prepared. Scheduled office hours with City Manager, Finance, Human Resources, Police and Public Works staff were held regularly to discuss general legal questions and provide either oral or written responsive advice. The City Attorney maintained an open-door policy for staff and Council access, and was therefore available to address staff questions and meet with staff on advisory matters on a constant basis. The City Attorney was also available by telephone and electronic communication during non-office hours.
- The office uses an Action Form system to track requests from staff for advice on various matters or review of contracts. Over 350 Action Forms were processed in the previous reporting period, a 17% increase from the prior fiscal year. Approximately one-half of these are contracts, with most of the remaining requests for general legal advice and/or research. Responding to City Council requests, through meetings, telephone conversations and electronic mail, continued to increase over the past year.


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- The primary goal of the City Attorney's Office is to continue to reduce the amount of open cases and to reduce or eliminate new litigation. Although the City Attorney may have a limited effect on the factual circumstances or tactical decisions made by outside entities to file or maintain litigation against the City, the goal remains to keep the number of lawsuits at ten or below, with no case having any significant City exposure. In the event a case is filed requiring outside expertise, the City Attorney's Office will continue to closely monitor outside counsel to reduce outside legal fees through the use of initial and periodic litigation budgets and case status reports. The continued approach will be an aggressive litigation strategy to defend the City from filed lawsuits, yet to reasonably identify, evaluate and recommend cases for prompt settlement where liability is likely. The City Attorney's Office will utilize a cost benefit analysis on litigation.
- The City Attorney's Office will continue to provide advice to staff and Council to reduce or eliminate problems before they become litigation, and will continue to identify areas of potential liability. The City Attorney's Office will, through daily interaction with staff and Council, as well as through more ambitious projects such as the revision of the Municipal Code, optimize strategies to eliminate or minimize areas of potential liability.
- The City Attorney's Office will continue to increase public confidence by the process of open discussion on as many legal matters as possible. A monthly litigation summary will continue to be provided to the public to increase awareness of legal matters facing the City.
- The City Attorney will continue to promote constant, open communication between the City Attorney's Office, City Manager, staff, and City Council to facilitate a reduction in potential liability and heightened awareness of legal issues.

Approximately 30% of the City Attorney's budget is spent on outside counsel handling non-complex, routine litigation, down from 33% the previous year. This is primarily a reactive function that can be managed, but not entirely eliminated, as the City Attorney cannot control the number or complexity of lawsuits filed against the City. The possibility therefore exists for exceeding the budgeted amount estimated for outside litigation. Indeed, the litigation budget did increase for last year due to two cases initiated by the City, and one defense case involving complex litigation. With the exception of these three major cases the special counsel's budget remains at the same level as the previous three years. However, due to the extraordinary expenses of these cases, the special counsel budget has increased substantially in FY 2002/03.

PERFORMANCE MEASURES	FY 2001/02
• Standard contracts reviewed within ten days	93%
• Amended Municipal Chapter Codes adopted by the City	3
• Hours of MCLE	10
• Closure of more than 50% of defense cases under \$75,000 in legal fees	100%

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